

**1st RIGA MOOT COURT COMPETITION,
2014**

INTERNATIONAL COURT OF JUSTICE

COMPROMIS

BETWEEN THE REPUBLIC OF ASDISTAN

AND

THE REPUBLIC OF ROSTMIA

TO SUBMIT TO THE INTERNATIONAL COURT OF JUSTICE

THE DIFFERENCES BETWEEN THE STATES

**CASE CONCERNING THE ECONOMIC BLOCKADE ON ASDISTAN BY
ROSTMIA AND THE ATTACKS ON ROSTMIA BY THE YX (A Conservative
Group)**

JOINT NOTIFICATION ADDRESSED TO THE REGISTRAR OF THE COURT

The Hague, February 10, 2014

On behalf of the Republic of Asdistan and the Republic of Rostmia, in accordance with Article 40(1) of the Statute of the International Court of Justice, we have the honour to transmit to you an original of the Compromis for Submission to the International Court of Justice of the Differences between the Applicant and the Respondent Concerning the Economic Blockade on Asdistan by Rostmia and the Attacks on Rostmia by the YX

Ambassador of the Republic of Asdistan to
the Kingdom of the Netherlands

Ambassador of the Republic of Rostmia to
the Kingdom of the Netherlands

COMPROMIS SUBMITTED TO THE INTERNATIONAL COURT OF JUSTICE

Asdistan and Rostmia, Considering that differences have arisen between them concerning the economic blockade on Asdistan by Rostmia and the attacks on Rostmia by the YX (A Conservative Group); *Desiring* further to submit their differences to the International Court of Justice

Article 1: The Parties submit the issues contained in the Compromis to the International Court of Justice pursuant to Article 40(1) of the Statute of the Court.

Article 2: The Court is requested to decide the Case on the basis of the rules and principles of general international law, as well as any applicable treaties. The Court is also requested to determine the legal consequences, including the rights and obligations of the Parties, arising from its judgment.

Article 3: All questions of procedure and rules shall be regulated in accordance with the provisions of the Riga Moot Court Competition. The Parties request the Court to order that written proceedings consist of Memorials.

Article 4: The Parties shall accept any judgment of the Court as final and binding and shall execute it in its entirety and in good faith. Immediately after transmission of judgment, the Parties will enter into discussions on modalities for execution.

In WITNESS whereof, the undersigned, being duly authorized to do so, have signed the present Compromis and have affixed thereto their respective seals of office.

**Ambassador of the Republic of
Asdistan to the Kingdom of the
Netherlands**

**Ambassador of the Republic of
Rostmia to the Kingdom of the
Netherlands**

COMPROMIS

1. Asdistan and Rostmia are both developing countries that share a common history and a common boundary (Refer to Annex I). The idea of Asdistan and Rostmia as nation-states emerged when colonial rule ended. During the years of colonial rule they were governed as one nation. In the 75 years of post-colonial history, relations between the two countries have by and large been friendly and the governments of the two nations have invested considerable financial and other resources to ensure that the historical, social and economic ties continue.

2. Despite the shared history, the political course of the two countries has been different. Asdistan adopted a model of regional governance that resulted in the decentralisation of decision making and governance. This also resulted in stronger regional governments that were democratically elected. Autonomy to the regions was the norm and hence the regional authorities had sole rights over the natural resources. Asdistan was a resource rich country. This also meant policy matter such as education, healthcare and social security was handled by the regions. The people of Asdistan did not have strong national identities, but identified themselves on a regional basis. The post-colonial Asdistan Constitution guaranteed its people a number of rights and civil liberties but the jurisprudence of the country evolved with a greater emphasis on the local community and regional decision making. The central government was fairly weak and largely handled matters of foreign policy, border security and matters of governance related to co-ordination between the regions.

3. Rostmia, on the other hand, adopted a centralised form of democratic governance with a strong central government and with very little role for regional governance. In the strictest sense it was a Union. This centralisation of authority resulted in the creation of strong central institutions but very little emphasis on the sustainability of local communities. The Rostmian Constitution (drafted at the time of independence) guaranteed a number of rights and civil liberties to its citizens and these were enforceable against government – consequently, there was occasional tension between the country's desire for strong central control and governance and the rights of individuals. The courts were known for their independence and on a balance protected the interests of individuals except in matters of national security. Parliament was strong and formed policy on all matters of importance in the country.

4. The divergent systems of governance meant that the progress of the countries were also divergent. It was clear that when it came to issues of water and sanitation, primary education, small businesses and efficiency in utilisation of local resources, Asdistan was ahead. However, when it came to issues such as higher education, comprehensive healthcare, large corporations and centralised financial institutions Rostmia was ahead. Rostmia was not as resource rich as Asdistan and invested heavily in technology, research and development. The strong central institutions and large business houses made this achievable. Given the historical ties between the two countries, people regularly travelled between the two countries. It was not uncommon for Asdistanis to have family that were Rostmian and vice versa. The closeness in relationship also extended in the economic sphere. Asdistan's natural resources were actively sourced by large businesses in Rostmia, in effect creating a situation where payments by Rostmian businesses were made to regional governments, feeding local development in Asdistan.

5. About 30 years ago, Darcias Raks, a Rostmian by birth and Asdistani by residence, decided to form a non-governmental organisation called the WATHID (a term that meant "zest" in the local dialect). WATHID began helping regional governments

on energy projects and this helped Darcias Raks in turn to establish relationships across the country. Almost all of regional governments reached out to him for help (in the absence of a strong central policy on energy) and he developed a national reputation as someone who could help regional governments become self reliant and efficient when it came to use of local natural resources. Based on the work he was doing with a number of regional governments, he quickly started to realise that there was efficiency in scale – and establishing an energy grid connecting the country was highly profitable. He also started to realise that a network of like-minded individuals could stand for elections in different regional governments and create the network necessary to impel significant changes in the society, economy and the polity.

6. Darcias Raks moved quickly and very soon individuals affiliated with WATHID quickly came to govern over 70% of the regional governments. The political elite of Asdistan, mostly defenders of freedom during the colonial rule, underestimated the impact WATHID across the regional fabric of Asdistan. Darcias Raks was able to persuade the key group in WATHID to form the WATHID Club on Political Process (WACoPP), a political party with the explicit goal of establishing a strong nation with its roots in the historic, social and cultural fabric of the nation but to be precise based on the Asdi religion that most people in Asdistan believed in. The Asdi faith is based on the worship of the 4 elements (Fire, Water, Land and Air). WACOPP considered itself as a democratic party that emphasized two core values. Firstly, it stood for a strong, nationalist state of Asdistan, with a strong federal government. Secondly, it stressed the importance of culture, custom and religion over certain civil liberties such as freedom of expression.

7. Using the political influence of the WACOPP, Darcias Raks became an Asdistani citizen. WACOPP came to power at the central government and Darcias Raks became President of Asdistan. Within a year of coming into power, WACOPP invoked a provision in the Asdistan Constitution that allowed for the creation of a constitutional committee that could recommend changes to the Asdistan Constitution. A number of changes were made and the role of the federal government increased drastically and some of the key provisions earlier under the purview of the regions such as education and health care were now placed under the federal government. The Constitution upheld the religious and cultural rights, but rights such as freedom of expression and press were curtailed under the premise of protecting national interests. Dissent against the government was not tolerated. Expressions against the religious order were not tolerated as well. Matters such as water, energy and natural resources remained within the realm of regional governments.

8. Using his new constitutional powers, Darcias Raks announced that Asdistan would invest in building a strong military and a military intelligence unit. Asdistan quickly increased its annual military expenditure to 20% of GDP. These changes were welcomed widely. WACOPP continued to gain political strength and Darcias Raks' was extremely popular and based on his personal credibility and also on the general premise that a balance between local governance and central governance and its emphasis on cultural and religious identity, the WACOPP continued to gain political strength and won consecutive elections in the country. In the last election, the opposition was reduced a paltry 7% of seats in the Parliament.

9. The recent history of Rostmia could be considered turbulent. 12 years ago, the country went through a massive financial crisis. Its currency devalued significantly, its stock markets crashed and business confidence hit rock bottom. Three of its banks collapsed and the overall economic and financial system came close to collapse. This affected the credibility of its political class and using the groundswell of emotion in the

country, the military of the country staged a coup, temporarily suspended the Constitution using a provision that allowed for its suspension and established martial law in the country. Visuals of people dancing on military tanks and with soldiers were seen all over the country. The judiciary, known for its independence, held that in times of national emergency, the Constitution could be suspended, in effect upholding the validity of military rule. They went so far as to say that the military was fulfilling its responsibilities to the country. They also held that the Constitution could be suspended for a maximum of 6 months.

10. One year later, the military rulers lifted the suspension of the Constitution and called for elections. The military supported a number of civilian candidates in these elections; most won and formed a government. Consequently, the military was able to continue to maintain its influence on the political fabric of the country. The courts passed a judgment recognizing the risks involved in this but were of the view that since military personnel were not directly standing for elections, it would not be consistent with the democratic structure of Rostmia for them to prevent military backed civilian candidates from contesting elections. Independent legal commentators were by and large of the view that this decision was consistent with the framework of the Constitution. The trend of military backed civilian candidates continued in future elections with similar results.

11. The government of Rostmia did not have a favourable view of the developments in Asdistan and felt in particular that a combination of cultural and religious nationalism mixed with a strong military would have long term consequences for Rostmia and had to be nipped in the bud. They consequently decided to de-focus the long term cultural ties between the nations and worked to move away from their economic dependence on the natural resources of Asdistan. This was an intentional decision on part of Rostmian government. This had tremendous implications for the Asdistan economy, the ability of its local communities to meet the needs of its citizens and created additional demand for scarce central resources. Even while they rejected any suggestions from Rostmia to step back from their new model of governance, Asdistan made numerous appeals to Rostmia to roll back what they called an “effective economic blockade” of the country, all of which were turned down by Rostmia.

12. Rostmia merely maintained that they had the right to take decisions in their economic national interests and believed that “the cocktail of religion, culture and a military in Asdistan” compelled them to take such a decision. In Asdistan, all of this was interpreted as the death knell of its way of governance and life – as the very lifeline of economic sustenance of its regional governments was destroyed. All of this led to a powerful government at the centre and Darcias Raks decided to use the emergency provisions of the Constitution and arrested a number of people in the country (including leaders of the opposition and a number of Rostmian citizens) in order to “protect the basic structure of Asdistan, the religious and cultural freedom of its people and their way of life”. This of course, resulted, in Rostmia strengthening the economic blockade and limiting access of Asdistanis to Rostmia.

13. In August 2007, Darcias Raks retired from active politics and his successor Marcias Raks took over. Marcias Raks was the second son of Darcias Raks and took a conservative stand in terms religion and culture. Marcias felt the need to prove he was more Asdi than anyone else due to his mixed parentage. Marcias Raks was famously known for his one liner: “Annihilate Rostmian economic imperialism”. He quickly moved to demonstrate his conservative credentials and decided to provide financial support to a number of popular social, economic and cultural groups including a hard-line group popularly known as YX. YX believed that Asdistan’s success as a country was inversely proportional to the success of Rostmia. It had been founded by 28 people who viewed the “economic blockade” of Asdistani regions by Rostmia as being primarily responsible for the degeneration of regional governance in Asdistan – and therefore believed that Asdistan had to be responsible for its own economic development. They were popular because they had established a number of social businesses, hospitals and schools across the country. Political scientists believed that the political views of YX were very conservative but acknowledged that they enjoyed fairly broad political support, adding testimony to the shifting political realities in Asdistan.

14. YX quietly decided to support attacks Rostmian institutions and after a series of violent attacks on Rostmian institutions (its Constitutional Court, Police Academy and Parliament), its Leadership Council openly announced that they had knowledge that these attacks would take place but disclaimed any specific involvement in the actual attacks – saying they merely provided moral support to local Rostmians freedom seekers who were unhappy with their government and the effective military rule in their country. An unknown group, calling themselves “Rostmia Unbound” claimed direct responsibility for the attacks but security personnel in Rostmia doubted the existence of any such group and were of the view that at best, it was a local chapter of YX. Asdistani intelligence believed that such a group did exist and was active in some of the leading universities in Rostmia. The international community, on the other hand, believed that a faction of YX was behind the attack on the Rostmian institutions and had some support in Rostmia. They also believed that it would be difficult to establish a link between the Asdistani government and YX when it came to the attacks but there was no doubt that the financial support provided by the government to YX was used in the attacks (even if the purpose of the funding was different).

15. The Prime Minister of Rostmia announced that based on its investigations, it had declared YX as a terrorist group. In his view, there was absolutely no credibility to a distinction between “providing moral support” and “having specific involvement in the attacks”. In any event, he believed that the evidence was clear – that YX had carried out the attacks on its institutions. He called upon Asdistan to arrest and handover the YX leadership within 48 hours, the failure of which would be considered an act of war by Asdistan. Marcias Raks immediately called a press conference and said that he was powerless to act in the absence of any specific evidence linking YX to these attacks and that he would be willing to act if he was provided evidence. Rostmia responded with a simple statement from its Defence Minister – take the leadership of YX into custody first and allow Rostmian security officials access to them for interrogation purposes. Asdistan refused to do so till evidence was provided.

16. The 48 hour deadline passed with the international community putting pressure on both countries to talk through their differences and to recognize that the current dispute was merely the flashpoint in a long standing dispute between the two countries. The Security Council passed a resolution asking Asdistan to cooperate with Rostmia in every way possible and called upon Rostmia to exhaust all means available for a

peaceful resolution. Asdistan expressed its disappointment with the resolution as it had “already demonstrated its willingness to act once Rostmia provided evidence” and more importantly, for not recognizing that “peaceful resolution of disputes cannot take place under the threat of war”. Rostmia on the other hand said they the failure of Asdistan to even arrest the leadership of YX established Asdistani government support and they were willing to give Asdistan an additional 48 hours to make the arrest. But there was no response from Asdistan

17. As international parleys continued, troops of both countries were mobilized. The YX Leadership Council decided to escalate matters and called for the unification of Rostmia and Asdistan under the leadership of Marcias Raks. Rostmia responded by saying that this was ample proof of the involvement of the Asdistani government in supporting YX and by extension, the attacks on Rostmia.

18. Fearing that war was inevitable, the Security Council passed a resolution asking the parties to resolve matters expeditiously and in a peaceful manner. On the intervention of the Secretary General of the United Nations, the leadership of Rostmia and Asdistan decided to show some statesmanship and agreed that the dispute was not limited to the recent attacks on Rostmian institutions and the YX Leadership Council and was indeed much more complex.

19. Asdistan essentially believed that the effective economic blockade and the destruction of its local communities by a non-democratic Rostmian government was the real root of the problems. It also believed that Rostmia could not unilaterally decide on culpability of groups acting within Asdistan and that Asdistan was not required to act in the absence of evidence.

20. Rostmia believed that the economic blockade was merely a response to the suppression of civil liberties in Asdistan, including the arrest of its citizens, and the use of religion and cultural factors to create instability and that their subsequent actions was merely in response to a brutal attack on its territory. Both countries recognised that their systems of governance were at the root of many of their differences and were based on their understanding of what was consistent with the “universal rights of all people”. Both believed that countries were increasingly being called upon to be democratic and that international law created some degree of hierarchy in the human rights framework and that they were acting consistent with the established hierarchy and the need to be democratic.

21. These and a number of co-related legal and factual issues were referred to the International Court of Justice by Asdistan and Rostmia. Both parties have accepted the jurisdiction of the Court and are members of the United Nations.

Annex I – Map of the Region

